

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ 1ST DRAFT ~

Meeting Summary Motor Vehicle Dealer Board Monday, March 8, 2004

Chairman D.B. Smit called the Dealer Board meeting to order at 11:10 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 15 members present. Present were members Carlton Courter, Bobby Joe Dotson, Steve Farmer, Rick Hunt, Todd Hyman, Clyde King, David Lacy, Hugh McCreight, James Mitchell, Pat Patrick, Frank Pohanka, Larry Shelor, Leo Trenor and Robert Woodall. (Absent: Max Pearson, Ted Robertson, Vince Sheehy and Chris Schroeder). Bruce Gould, Peggy Bailey, Debbie Allison and Bill Jackson represented the Dealer Board. Philip Vasquez, Gail Morykon and Paige Green represented DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The January 12, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

STATUTORY COMMITTEE REPORTS:

Dealer Practices Committee:

- **Laureen T. Askew and AJ's Auto Repair & Sales, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Laureen T. Askew and AJ's Auto Repair & Sales, Inc. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Ms. Laureen T. Askew t/a AJ's Auto Repair & Sales for alleged violations of Va. Code §§46.2-1533, failure to maintain required business hours; and 46.2-1575.2, failure to comply after receiving a written warning. Ms. Askew received at least one letter of warning that outlined the minimum hours requirements and based on due consideration, and the hearing officer's recommendation, the Board believes that a civil penalty should be levied against Ms. Laureen T. Askew and AJ's Auto Repair & Sales. The Board hereby assesses a civil penalty in the amount of \$250 on Ms. Laureen T. Askew and AJ's Auto Repair & Sales for violations of Va. Code §§46.2-1533 and 46.2-1575(2).

Frank Pohanka seconded. The motion carried unanimously.

- **Kazem Mohaghegh and Nadia Imports.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Kazem Mohaghegh and Nadia Imports. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Kazem Mohaghegh t/a Nadia Imports for alleged violations of Va. Code §46.2-1575(12), leasing, renting, lending or otherwise allowing the use of a dealer's license plate by a person not authorized to use them and §46.2-1529 related to record keeping requirements. Based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Kazem Mohaghegh t/a Nadia Imports; and based on due consideration, and the recommendation of the hearing officer, the Board believes that all licenses and certificates issued by the Board to Mr. Kazem Mohaghegh t/a Nadia Imports should be suspended for 90 days if he does not account for all licenses plates issued to his dealership. The Board hereby assesses a civil penalty on Mr. Kazem Mohaghegh t/d Nadia Imports in the amount of \$2,800 for violations of Va. Code §46.2-1575(12) and \$1,000 for violations of Va. Code §46.2-1529 for a total civil penalty of \$3,800. The Board hereby suspends all licenses and certificates issued by the Board to Mr. Kazem Mohaghegh t/a Nadia Imports for a period of 90 days for violations of §46.2-1575(12), leasing, renting, lending or otherwise allowing the use of a dealer's license plate by a person not authorized to use them if he fails to account for all license plates issued to Nadia Imports to the satisfaction of the Board's executive director within 30 days of the date of the written notice of the Board's determination in this matter.

Nelson Kieff, attorney representing Mr. Mohaghegh, felt that the civil penalty of \$3,800 was to high and requested that the members discuss reducing the fine to \$500, which would be more suitable for Mr. Mohaghegh, because his business is small and does not make enough to handle that kind of penalty.

Pat Patrick seconded. All in favor: 14 (Courter, Dotson, Farmer, Hunt, Hyman, King, McCreight, Mitchell, Patrick, Pohanka, Shelor, Trenor, Woodall, Smit). Opposed: 1 (Lacy). The motion carried.

- **Stephen D. Willis, Sr. and W & W Auto Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Stephen D. Willis, Sr. and W & W Auto Sales. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Stephen D. Willis, Sr. t/a W & W Auto Sales for alleged violations of Va. Code §§46.2-1533, failure to maintain required business hours; and 46.2-1575.2, failure to comply after receiving a written warning/willful disregard for the dealer laws. Mr. Willis received several letters of warning that outlined the minimum hours requirements and based on due consideration, and the hearing officer's recommendation, the Board believes that a civil penalty should be levied against Mr. Stephen D. Willis, Sr. t/a W & W Auto Sales. The Board hereby assesses a civil penalty in the amount of \$500 on Mr. Stephen D. Willis, Sr. and W & W Auto Sales for violations of Va. Code §§46.2-1533 and 46.2-1575(2).

Robert Woodall seconded. The motion carried unanimously.

- **Stephen M. Brown, Owner of Airport Auto Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Stephen M. Brown, Owner of Airport Auto Sales. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the executive director, under the authority granted

by the Motor Vehicle Dealer Board, revoked the salesperson license of Mr. Stephen M. Brown under Va. Code §46.2-1575(9) having been convicted of any criminal act involving the sale of vehicles. Mr. Brown appealed the revocation and requested a formal hearing. Based on due consideration, and the hearing officer's recommendation, the Board believes that a civil penalty should be levied against Mr. Stephen M. Brown. The Board hereby assesses a civil penalty in the amount of \$2,000 on Mr. Stephen M. Brown for violations of Va. Code §46.2-1575(9).

Bobby Joe Dotson seconded. The motion carried unanimously.

Representatives from AJ's Auto Repair & Sales, Nadia Imports and Airport Auto Sales were present and give the opportunity to address their issues to the Committee and Full Board.

Licensing Committee:

Chairman Bobby Joe Dotson summarized discussions held and actions that were taken during the Committee Meeting. He indicated that the Committee decided to keep the DSD-10 as it is currently printed and took no further action.

Advertising Committee:

Full Board Vice-Chairman Steve Farmer summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman Steve Farmer summarized discussions held and actions that were taken during the Committee Meeting.

- **Robert & Janet Wrubleski and Capital Sport Car & R V Center.** Chairman Steve Farmer summarized for the Board the discussion held in the Committee meeting regarding Robert & Janet Wrubleski and Capital Sport Car & R V Center. Based on that discussion and the recommendation in the case, Mr. Farmer made the following motion: Pursuant to Section 46.2-1527.1 et seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund, and the recommendation of the Hearing Officer on the claims and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

Robert & Janet Wrubleski	\$20,000.00
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Clyde King seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

- **Dealer Investigation Report.** Gail Morykon presented a report that includes curbstoning cases and other cases relative to dealers. This report includes cases from a 6 to 8 month time period. Future reports will not be as lengthy as this one, as they will cover fewer months. (See attached report)

NEW BUSINESS

- **Housing Opportunity Made Equal (HOME).** This issue was not presented, but Bruce indicated that this group had some ideas relating to a possible partnership with dealers in helping individuals get into cars. This issue may be presented at a future meeting.
- **Executive Director's Report.** Bruce Gould reported on the conversion of VIPnet and on-line renewals to a system hosted by DMV. He indicated that not many dealers have subscribed to VIPnet. The consensus of the Board was to migrate from the Vipnet based system to the DMV base system. Bruce noted that he anticipated conversion on May 1. Changes to the DSD-4 (Purchase of temporary tags) form have been made and a copy of the form and a letter was sent to all dealers on March 8, 2004. Washington DC has also revamped their security features on their temporary tags. Leo Trenor suggested that Trailer Dealers should only be given one tag instead of a pair of tags, like they are issued to motorcycles.
- **Legislative Update.** Bruce Gould reported that three bills have some impact on the Dealer Board. 1) If a dealer is a member of the Reserve, National Guard, etc. and if they are on active duty overseas and if their dealer license expires while they are out of the country, a window of opportunity is given to them to put them back in business without having the dealer start the business over. 2) "Other dealers", those who sell ambulances, fire equipment and funeral vehicles will be required to come into compliance with all of the dealer requirements. 3) Self propelled cranes weighing more than 47,000 pounds you do not need to have a dealer's license to sell. The next couple of bills do not have a direct impact on the board. 1) Anyone that sells trailers that weigh less than 3,000 pounds, they will not have to have a trailer dealer license. 2) The House Bill that exempts motor vehicles with less than 6,000 miles indicated on the odometer initial safety inspection and that bill has gone forward. 3) Last year, a bill that went through that required dealers who made over 10 transactions per month, a fee would have to be paid to DMV. This bill raises the vehicle count from 10 to 20. 4) The House Bill that allows the dealer to photocopy a driver's license, the dealer will not have to ask DMV's permission as currently required. 5) Mike Charapp explained the bill concerning the amendment to the consumer protection act. He indicated that if there is a dispute and the dealer makes a cure offer to settle early in the litigation, before the first response of pleading is due, and puts in an additional 10% to cover attorney's fees and difficulties up to \$4,000. If the customer turns this offer down, takes the matter to trial and gets a verdict and if that verdict does not exceed the amount of the offer, then the customer is not in a position to get his or her attorney's fees paid by the dealer.

The next meeting will be scheduled for May 10, 2004.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 12:05 p.m.

**Dealer Investigation Report
Presented to Motor Vehicle Dealer Board
March 8, 2004**

Southwest Virginia:

- A CSC Manager alerted the DMV Special Agent about a business that may be selling trailers without having a dealer's license. The investigation centered around whether this business needed to be licensed, as they were selling trailer "kits" and then assembling the kits for their customers. This case was marked inactive, pending legislative action on HB 340, which would exempt this and other like businesses from being licensed as trailer dealers.
- A MVDB Representative and a DMV Special Agent jointly visited a business and observed 30 vehicles at the location. Allegations were made that the vehicles were being offered for sale. However, further investigation and a review of corresponding invoices revealed the vehicles actually belonged to a licensed independent motor vehicle dealer. The dealer opened approximately three weeks before the Agents' visit, but had been unable to relocate his inventory due to bad weather. Case was closed with no further action.
- In Tazewell, an individual who had previously sold 4 vehicles and had 3 more for sale was found guilty of curbstoning. He was fined \$1000, with \$900 suspended.

Northern Virginia:

- A curbstoner was representing himself as a salesman for a licensed independent motor vehicle dealer, even though he didn't work for the dealership in any capacity. The manager of the dealership cooperated with the DMV Special Agents by posing as a prospective buyer and attempting to purchase a vehicle from the curbstoner. The individual was charged with curbstoning. Court date is scheduled for March 25th.
- An individual supposedly representing a North Carolina motor vehicle dealer sold a vehicle with an open title to a Fairfax County couple. The individual was charged with curbstoning and having an open title. Court date is scheduled for March 16th.
- A DMV Special Agent received a customer complaint alleging that an independent motor vehicle dealer had failed to deliver title. Approximately 50 days had lapsed between the date of purchase and the date of the complaint. The investigation revealed the manager of the dealership had been off for the past month due to a death in the family. The dealer assured the Agent that the incident was an oversight and that they would take care of it immediately. The dealer obtained the title and mailed it to the complainant as promised. Case was closed with no further action.

Tidewater Virginia:

- A CSC Manager alerted the DMV Special Agent about an individual who had purchased temporary tags for an independent motor vehicle dealer three times within a 3-week period. Each time, the application was incomplete, and the Manager was concerned that the individual was not authorized to purchase tags for the dealership.

When the Agent visited the dealer the next day, he was not able to produce any type of log or records for the temporary plates he had recently purchased. The dealer was issued a warning, and advised the Agent would return the next week for another inspection.

The subsequent inspection found the dealer still failed to have a temp tag log completed. In addition, numerous tags were observed unattended and unsecured. The Agent issued a second warning, and advised the dealer that any further infractions would be cited criminally. Investigation is continuing.

- A DMV Special Agent received a customer complaint alleging an independent motor vehicle dealer committed fraud by selling the customer's consignment vehicle for other than the agreed upon price. Investigation revealed the dealer did not have the required consignment contract. Investigation will not be pursued further, due to insufficient documentary evidence. Case closed. Matter will be pursued civilly between the involved parties.

Central Virginia:

- An independent motor vehicle dealer purchased a new pickup truck from a franchise dealer. He did not convert the Certificate of Origin to a title before he sold the vehicle to a consumer. When the dealer attempted to process the consumer's titling transaction at DMV, a "stolen hit" was received on the vehicle. A DMV Special Agent responded to the Customer Service Center, and confirmed the stolen hit with the originating police department. The police department advised the vehicle was stolen from the manufacturing plant in their state.

Subsequent investigation revealed the vehicle was, in fact, not stolen. It had been recovered, but had not been cleared from NCIC. Case was closed with no further action.

- A DMV license agent alerted the DMV Special Agent about a possible curbstoner, based on titling transactions the individual had been submitting to her office. By coincidence, the Agent encountered the individual while they were both at the license agent's office. The individual stated he had already applied for a dealer's license with the MVDB, so the Agent issued him a written warning to not sell any additional vehicles until he was properly licensed. The individual was charged, however, with an open title he had in his possession after the Agent was unable to verify his version of events with the person who supposedly sold him the vehicle the previous evening. Court date is pending.
- A customer filed a complaint with DMV alleging an independent motor vehicle dealer issued multiple sets of temporary tags and failed to deliver title. Approximately two months had lapsed between the date of purchase and the date of the complaint. Investigation revealed customer is not able to obtain title to the vehicle she purchased due to errors the dealer made on the previous title. The dealer operator was charged with knowingly inserting false information on the face of temporary tags. Court date is pending.
- A customer filed a complaint with DMV alleging an independent motor vehicle dealer collected titling/registration fees and sales & use tax from her twice. A review of the dealer's paperwork, including the buyers order and finance contract, did not substantiate the allegation. Case was closed with no further action.
- DMV received an anonymous complaint alleging an independent motor vehicle dealer was issuing multiple sets of temporary tags to his customers. The DMV Special Agent conducted an

exhaustive review of the dealer's records and interviewed several of his customers. The investigation revealed:

- Dealer increased the number of temporary tags he purchased in 2003 by 100% as compared to 2002.
- Dealer only had documentation showing that approximately half of these tags had been issued to vehicle purchasers.
- Dealer records indicated an "overwhelming" number of multiple sets of temporary tags were issued to the same person and to the same vehicle. In some cases, up to 5 sets of tags were issued.
- Most of the multiple sets of temporary tags were filled out to erroneously reflect the issue date as the sale date, when – in fact – the sale date was months earlier.
- Dealer charged customers \$5.00-\$10.00 for each set of temporary tags.
- Customers had difficulty paying the required titling/registration fees and sales & use tax. The temporary tags enabled them to continue to drive the vehicles.

Dealer was charged with the following offenses:

1. Five felony counts of making a false statement with fraudulent intent on a certificate of title/registration.
2. Three Class 3 misdemeanor counts of charging more for temporary license plates than the fees dealer paid to DMV.
3. Three Class 3 misdemeanor counts of aiding another in evading sales tax.

Court date is scheduled for March 8th.

- DMV received a customer complaint alleging an individual was curbstoning, and selling vehicles with open titles. The complainant stated the individual had changed his selling practices to incorporate "skipping titles," since he had been previously warned by a DMV Special Agent to stop curbstoning. Investigation has been unable to substantiate allegations. Case closed, unless further leads develop.
- A DMV Special Agent received a customer complaint alleging an individual was curbstoning, and advertising vehicles for sale in the local "vehicle trader" publication. DMV records indicated the individual had sold 11 vehicles within the past 12 months. The investigation revealed he was purchasing these vehicles from a retail auction. Furthermore, the Agent gathered documentation to substantiate he was purchasing vehicles at the auction in the name of another individual and, in turn, selling those vehicles.

The individual was convicted of curbstoning in Rockbridge County General District Court. He was fined \$2000, with \$1500 suspended.

- A DMV investigative support employee discovered a suspicious number of bought/sold vehicles on a customer's record when she inquired on the record in conjunction with a salvage vehicle exam request. The investigating DMV Special Agent did not observe any vehicles displayed for sale at the address listed on DMV's records. The address appeared to be vacant. The Agent has not been successful in locating the customer. Case closed, unless further leads develop.

Submitted by:
W. Gail Morykon

Contributions by:
Investigative Services District Staff

Meeting Summary
Dealer Practices Committee
Monday, March 8, 2004

Chairman Todd Hyman called the Dealer Practices Committee meeting to order at 8:34 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were members: Bobby Joe Dotson, Clyde King, Hugh McCreight, James Mitchell, Pat Patrick, Frank Pohanka, Chris Schroeder, and Robert Woodall. (Absent: Vince Sheehy, Ted Robertson) Other members present: Steve Farmer, Rick Hunt, David Lacy, Larry Shelor, Leo Trenor and D.B. Smit. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison, Bill Jackson and Katherine Idrissi represented the Dealer Board. Gail Morykon, Paige Green, Philip Vasquez were present from DMV. Rick Walton was present from the Attorney General's Office.

The January 12, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: January Actions.** Peggy Bailey indicated that at the Dealer Practices Committee meeting on January 12, 2004, the Committee considered the hearing officers' reports on the following dealerships: The Board considered the facts and evidence in the case of B. Dan Dickerson and Dan's Auto Mart USA. It was alleged that Mr. Dickerson was in violation of Va. Code §§46.2-1575(2), 46.2-1510, 46.2-1515, 46.2-1516 and 46.2-1575(3). After much discussion, a resolution to assess a civil penalty failed. Mr. Dickerson was notified of the Board decision in a letter dated January 22, 2004. The Board reviewed the facts and evidence of an informal fact-finding conference involving Gary Nunnally and Gary Nunnally Car Sales. It was alleged that Mr. Nunnally had violated Va. Code §§46.2-1575(2), 46.2-1529, 46.2-1530, 46.2-1548, 46.2-1550 and 46.2-1518. A resolution was passed to assess a \$1,000 civil penalty and to suspend all licenses and certificates issued to Mr. Nunnally and the dealership for a period of 90 days. Mr. Nunnally was notified of the Board's decision in a letter dated January 22, 2004, and was given until February 23, 2004 to both pay the civil penalty and surrender all license items or appeal. On February 18, 2004, the Board received a letter from Mr. Nunnally appealing its decision to suspend his license. The appeal for a formal hearing was assigned to a hearing officer on February 19, 2004. The Board reviewed and considered the facts and evidence and the hearing officer's report of a formal hearing and passed a resolution to assess a \$3,000 civil penalty and suspend all licenses issued to Walter B. Wilson and Armistead, Incorporated for 90 days for violations of Va. Code §§46.2-1529, 46.2-1530, 46.2-1531, 46.2-1542, 46.2-1548, 46.2-1550, 46.2-1559, 46.2-1518, 46.2-1533 and 46.2-1575(2). Mr. Wilson was notified of the Board's decision in a letter dated January 22, 2004, and was given until February 23, 2004 to pay the civil penalty and surrender all licenses or appeal. A representative from Armistead, Terry Mason came into the office on February 23, 2004 and surrendered all of the dealer's licensing items, but did not pay the \$3,000 civil penalty. The penalty amount will be turned over to the Virginia Taxation Department for their Debt-Setoff Program. Upon reviewing and considering the results of an informal fact-finding conference, the Board passed a resolution to assess a \$4,000 civil penalty and suspend all licenses issued to Altaf H. Shah and Sports Car Center for 90 days for violations of Va. Code §§46.2-1529, 46.2-1530, 46.2-1532, 46.2-1542, 46.2-1550, 46.2-1559, 46.2-1518 and 46.2-1575(2). Mr. Shah was notified of the Board's

decision in a letter dated January 22, 2004, and was given until February 23, 2004 to pay the civil penalty and surrender all licenses or appeal. On February 3, 2004 the Board received a faxed letter from the dealer appealing the decision to a formal hearing. The case was assigned to a hearing officer on February 6, 2004.

- **Hearing Process.** Bruce Gould gave an over-view of the Hearing Process. He indicated that the first step in calling for an informal fact-finding conference is a letter written to the subject outlining what the problems are and the types of evidence the staff will present. In turn, the letter and evidence is turned over to a hearing officer and the hearing officer will be in contact with the subject involved. Two exceptions to this process are that the Board Members have given the Executive Director authority to assess civil penalties for continued violations in advertising and dealers who have problems keeping their hours of operation. The Executive Director's decision can be appealed and a conference is conducted at that point. Hearing officers usually take about two weeks to contact the subject involved in the conference and/or hearing. Once the conference takes place, the hearing officer has 60 days to get his/her recommendation to the Board staff. Once the recommendation is received, the Board staff sends it to the subject and gives them the opportunity to comment on it before any action is taken. If the recommendation is to suspend, revoke or deny a license, the Board has given the Executive Director to make the final decision. The dealer can still appeal the Executive Director's decision and a formal hearing is conducted. If the recommendation levies a civil penalty, then it is brought before the Board Members for the final decision, because, when only a civil penalty is assessed, they do not have the opportunity to appeal to a formal hearing. If the subject does not agree with the Board Members decision, then the dealer can appeal to Circuit Court. All formal hearings are conducted with a court reporter. The whole process can take anywhere from 89 to 240 days.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Laureen T. Askew and AJ's Auto Repair & Sales, Inc.** An informal fact-finding conference was conducted on October 22, 2003 referencing Laureen T. Askew and AJ's Auto Repair & Sales, Inc. for the alleged violations of Va. Code §46.2-1533 (Failing to maintain posted business hours). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board assess a civil penalty of \$250 for the repeated violations of §46.2-1533.

Mr. Alton Askew spoke on behalf of AJ's Auto Repair & Sales, Inc. He indicated that they are brand new and the reason why they were not keeping proper hours because of medical problems. He indicated that he now has the appropriate people running the business the way it is suppose to be and his health has improved.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Frank Pohanka to accept the hearing officer's recommendation of assessing a civil penalty of \$250. Clyde King seconded. The motion carried unanimously.

- **Kazem Mohaghegh and Nadia Imports.** An informal fact-finding conference was conducted on October 20, 2003 referencing Kazem Mohaghegh and Nadia Imports for the alleged violations of Va. Code §§46.2-1529 (failure to maintain required records), 46.2-1561 (Misuse of temporary tags). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board assess a civil penalty of \$2,800 for the violation of Va. Code §46.2-1561 and a \$1,000 civil penalty for the violation of Va. Code §46.2-1529 for a total penalty of \$3,800.00 and also recommended that the Board suspend Mr. Mohaghegh's dealer certificate and salesperson's license for a period of 90 days and that re-instatement be conditioned upon his proper accounting for the tags missing from the inventory (X664-414-X664-449) and for the tags unaccounted for in the log (X426-900-X426-910).

Mr. Nelson Kieff, attorney for Mr. Kazem Mohaghegh spoke on behalf of his client. He indicated that this was the first violation that Mr. Mohaghegh has incurred. He was not aware of any missing tags until it was brought to his attention by the field representative. He also indicated that Mr. Mohaghegh does not dispute the alleged violations being brought against him. He just feels the civil penalty is too harsh. Mr. Kieff lastly indicated that Mr. Mohaghegh's record keeping has been revised and is adequate at this time and he will not be lending any more tags to anyone.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Frank Pohanka to accept the hearing officer's recommendation of assessing a civil penalty of \$3,800 and a 90-day suspension of the dealer certificate and salesperson's license. Hugh McCreight seconded.

An amended motion was made by Frank Pohanka to assess the \$3,800 civil penalty and give Mr. Mohaghegh a 30-day window to account for the missing tags and if he doesn't then the 90-day suspension would go into affect. Hugh McCreight seconded. The motion carried unanimously.

- **Stephen D. Willis, Sr. and W & W Auto Sales.** An informal fact-finding conference was conducted on February 4, 2004 referencing Stephen D. Willis, Sr. and W & W Auto Sales for the alleged continued violations of Va. Code §46.2-1533 (failing to maintain posted business hours). Also, Mr. Willis was alleged to be in violation of Va. Code §46.2-1575(2) (failure to comply with written warnings from the Board). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board assess a civil penalty of \$500.00 for the repeated violations of Va. Code §46.2-1533.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Bobby Joe Dotson to accept the hearing officer's recommendation and assess a civil penalty of \$500. Clyde King seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Stephen M. Brown, Owner of Airport Auto Sales.** A formal hearing was conducted on January 8, 2004 referencing Stephen M. Brown for the alleged violation of Va. Code §46.2-1575(9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board suspend Mr. Brown's salesperson's license for at least six (6) months and assess a civil penalty of \$2,000. It was also recommended that reinstatement of Mr. Brown's license be conditioned upon the full payment of the \$2,000 civil penalty.

Stephen Brown was present and explained the situation resulting in his case. He indicated that he has paid all his fines and he felt that the 6-month suspension was too severe and it will put him out of business.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Jim Mitchell to accept the hearing officer's recommendation and assess a civil penalty of \$2,000 and suspend his salesperson's license for a period of thirty (30) days. No second. The motion failed for a lack of a second.

Motion was made by Bobby Joe Dotson to assess a civil penalty of \$2,000 with no suspension of license. Frank Pohanka seconded. All in favor: 8 (Hyman, Dotson, King, McCreight, Patrick, Pohanka, Schroeder, Woodall). Opposed: 1 (Mitchell). The motion carried.

Report on Variance Requests (Dealer Hours and Storage of Dealer Records). Bruce Gould indicated that there were 4 requests for dealer hours and 1 dealer request for storage of records in another location and all were approved. He also indicated as of February 26, 2004, 1,000 dealers are now on-line dealers.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for May 10, 2004.

The meeting adjourned at 10:40 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, March 8, 2004

Chairman Bobby Joe Dotson called the Dealer Licensing Committee meeting to order at 10:45 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members Frank Pohanka, Steve Farmer, Rick Hunt, Todd Hyman, David Lacy, James Mitchell, Larry Shelor and Larry Woodall. Other members present: Carlton Courter, Clyde King, Hugh McCreight, Pat Patrick, Chris Schroeder, Leo Trenor, D. B. Smit. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Bill Jackson represented the Dealer Board. Philip Vasquez, Gail Morykon and Paige Green represented DMV. Rick Walton represented the Attorney General's Office.

The January 12, 2004 meeting summary was approved.

PUBLIC COMMENT:

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

- **DSD-10 (Dealer License Application Form).** Bobby Joe Dotson pointed out that at the January meeting, Frank Pohanka made a motion to delay any action on the "revised" DSD-10 so that it can be reviewed further. No discussion followed.

Motion was made by Frank Pohanka that the Committee "not" adopt the revised language and leave the form as currently printed. Rick Hunt seconded. General discussion followed. The motion carried unanimously.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for May 10, 2004.

The meeting adjourned at 10:57 a.m.

Meeting Summary
Advertising Committee
Monday, March 8, 2004

Full Board Vice-Chairman Steve Farmer called the Advertising Committee meeting to order at 10:58 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were members Rick Hunt, Hugh McCreight, Pat Patrick and Larry Shelor. (Absent: Vince Sheehy, Max Pearson, Ted Robertson and Chris Schroeder). Other Board members present: Carlton Courter, Bobby Joe Dotson, Todd Hyman, Clyde King, David Lacy, James Mitchell, Frank Pohanka, Leo Trenor, Robert Woodall and D. B. Smit. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Bill Jackson represented the Dealer Board. Philip Vasquez, Gail Morykon and Paige Green represented DMV. Rick Walton represented the Attorney General's Office.

The January 12, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: January Actions. Bruce Gould reported on the Advertising Committee meeting held on January 12, 2004, the Committee considered the hearing officer's report on the following dealership and a resolution was passed. After an informal fact-finding conference was conducted the Board reviewed and considered the facts and evidence and passed a resolution to assess a civil penalty of \$1,000 against Dennis M. Allison and Great Neck Auto Sales II for repeated violations of 24 Virginia Administrative Code §22-30-30-(D)(1), which provides that advertisements must meet the Federal Trade Commission Truth in Lending Act Requirements and Va. Code §46.2-1581.8, which requires dealers to identify the year, make and model of advertised vehicles. Mr. Allison was notified of the Board's decision in a letter dated January 22, 2004, and was given until February 23, 2004 to either pay the civil penalty or appeal. On February 3, 2004, the Board received the \$1,000 civil penalty.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting will be May 10, 2004.

The meeting adjourned at 11:00 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, March 8, 2004

Chairman Steve Farmer called the Transaction Recovery Fund Committee meeting to order at 11:00 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members: Bobby Joe Dotson, Clyde King, David Lacy, Larry Shelor and Leo Trenor (Absent: Chris Schroeder). Other Board members present: Carlton Courter, Rick Hunt, Todd Hyman, Hugh McCreight, James Mitchell, Pat Patrick, Frank Pohanka, Robert Woodall and D.B. Smit. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Bill Jackson represented the Dealer Board. Philip Vasquez, Gail Morykon and Paige Green represented DMV. Rick Walton represented the Attorney General's Office.

The January 12, 2004 summary was approved.

PUBLIC COMMENT:

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Robert & Janet Wrubleski and Capital Sport Car & RV Center.** Bruce Gould indicated that Robert & Janet Wrubleski entered into a contract on June 26, 2001 to purchase a 2002 Timber Ridge Park Trailer from Capital Auto Brokers, T/A Capital Sport Car & RV Center at a purchasing price totaling \$34,778.40. The couple traded in their 2000 Jayco Travel Trailer. In August 2003, the Dealer Board received a letter from Key Bank indicating that they are still holding the Wrubleski's financially liable for the balance of the Jayco Travel Trailer. Capital Sport Car & RV Center never satisfied the lien to the Jayco Travel Trailer as they had agreed to do. An informal fact-finding conference was conducted on February 17, 2004 and based on the testimony and evidence in the case, the agency representative conducting the informal fact-finding conference recommended that the Recovery Fund Committee and Full Board approve of the maximum payment of \$20,000.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to accept the hearing officer's recommendation and approve the maximum payment of \$20,000. Leo Trenor seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for May 10, 2004.

The meeting adjourned at 11:07 a.m.